

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 3, 2003

IN RE:

NASHVILLE GAS COMPANY APPLICATION FOR
APPROVAL OF A NEGOTIATED GAS REDELIVERY
AGREEMENT WITH STATE INDUSTRIES

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DOCKET NO.
02-01270

ORDER APPROVING NEGOTIATED GAS REDELIVERY AGREEMENT

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate, and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on February 18, 2003, upon the application (the "*Application*") of Nashville Gas Company ("Nashville Gas" or the "Company") for approval of a revised agreement (the "Revised Agreement") which extends and revises the Negotiated Gas Redelivery Agreement (the "Agreement") under which Nashville Gas provides natural gas service to State Industries.

Nashville Gas's Application

Nashville Gas Company ("Nashville Gas" or the "Company") filed its *Application* on November 27, 2002. The *Application* states that by Order issued January 22, 1999 in TRA Docket No. 98-00338, the Authority approved the provision of natural gas service by Nashville Gas to State Industries pursuant to the Agreement through December 31, 2002. The *Application* further states that the underlying justification for the Authority's approval of this Agreement was the threat of bypass, a condition that persists in the ongoing provision of service to State Industries. The *Application* states that due to the expiration of the existing Agreement and the

ongoing threat of bypass by this customer, Nashville Gas and State Industries have negotiated an extension of the term of the existing Agreement and have executed the Revised Agreement, which sets forth this extended term and incorporates several other non-material changes to the original Agreement. The Revised Agreement, agreed to by Nashville Gas and State Industries on November 19, 2002, extends the term of the Agreement until December 31, 2007.

The original Agreement provides for an increase in the volumetric charge of \$0.005 per decatherm per year. The Revised Agreement updates the volumetric charge initially set forth in Section 2.01 of the original Agreement. As explained in the *Application*, this is not a change in the current terms of service between Nashville Gas and State Industries.

At a regularly scheduled Authority Conference held on December 16, 2002, the panel voted unanimously to allow the amendment to go into effect temporarily for ninety days to allow additional time for the Authority to determine whether a threat of imminent bypass continues to exist that would justify the Revised Agreement extending this special contract.¹

Findings and Conclusions

The *Application* and the Company's responses to data requests indicate that the conditions supporting approval of the Agreement in Docket No. 98-00338 are still present and continue to support a finding that bypass by State Industries is feasible and therefore that a special contract between the Company and State Industries is appropriate. State Industries' facility is approximately 6,000 feet from a direct connection with the Tennessee Gas pipeline,

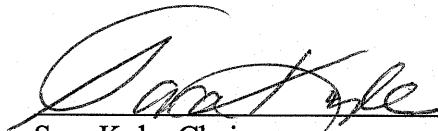
¹ In *In re: Petition of Chattanooga Gas Company for Approval of Large Customer Contract Under Experimental Rule with Archer Daniels Midland Co.*, Docket No. 97-00262, the Authority applied four criteria for approval of a discounted long-term gas transportation service contract for the purpose of avoiding system bypass. The Authority derived these criteria from an Experimental Rule approved for Chattanooga Gas Company, pursuant to which "the Authority must find that: customer bypass is imminent, such bypass would be uneconomic; the contract rates and terms are not unduly preferential or unduly discriminatory; and that the contract rates are the highest that could be negotiated." *Order Disapproving Special Contract Under the Large Customer Contracts Tariff*, Docket No. 97-00262, p. 5 (March 17, 1998).

which is in fact located on State Industries' property. Although State Industries has not acquired permits or other information regarding connection to this pipeline, State Industries indicated to Nashville Gas that it is prepared to initiate an immediate bypass if it is not able to negotiate an extension to the Agreement. Thus, the rationale for approval stated in the Authority's January 22, 1999 Order in Docket No. 98-00338 continues to apply.


During the February 18, 2003 Authority Conference, upon careful consideration of the *Application* and of the entire record in this matter, the panel voted unanimously to approve the *Application*.

IT IS THEREFORE ORDERED THAT:

1. The Application of Nashville Gas Company for approval of a revised Gas Redelivery Agreement with State Industries is approved.
2. Any party aggrieved with the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from the date of this Order.


Sara Kyle, Chairman


Deborah Taylor Tate, Director


Pat Miller, Director